

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1979

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NO. 78-1141

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STEELCASE, INC.,  
*Petitioner,*

v.

DELWOOD FURNITURE COMPANY, INC.,  
*Respondent.*

---

On Petition for Writ of Certiorari to the  
United States Court of Appeals for  
the Fifth Circuit

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**MEMORANDUM OPPOSING CERTIORARI**

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The Petition is based on the contention that the *teachings* of an unpublished foreign patent *as a whole* cannot be used as prior art, but *only the claimed invention*.

In its Opinion of July 2, 1976,<sup>1</sup> the District Court

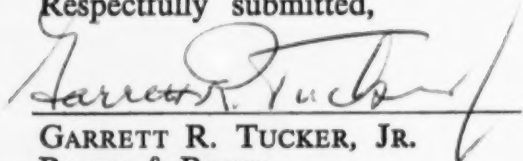
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1. See the District Court Opinion of July 2, 1976, at p. 9 (Appendix p. A63).

looked to the *claimed invention* of the prior art Belgian Patent, not the patent as a whole. It was the *claimed invention* of the Belgian Patent which, when combined with the teachings of the other prior art of record, rendered the alleged invention in Petitioner's patent "obvious", and therefore invalid in view of 35 U.S.C. § 103. In affirming the District Court, the Court of Appeals for the Fifth Circuit noted that in determining obviousness, the Belgian Patent had been properly used as a reference not only for the "*explicit claims*", but also for what could be reasonably inferred *from those claims*.<sup>2</sup>

This is in no way inconsistent with the authorities cited by Petitioner. Petitioner's contention that the decision "has created a conflict between the circuits and with prior decisions of the United States Supreme Court" is plainly insubstantial, and the Petition for Certiorari should, therefore, be denied.

Respectfully submitted,

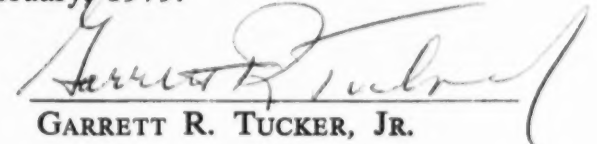


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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Memorandum was served upon Petitioner by mailing three (3) copies of the same to Petitioner's Counsel of Record, Lloyd A. Heneveld, Price, Heneveld, Huizenga & Cooper, P. O. Box 2567, Grand Rapids, Michigan 49501, by Express Mail, postage prepaid, on this the 16 day of February, 1979.



GARRETT R. TUCKER, JR.

<sup>2</sup> Opinion of the Court of Appeals at 578 F.2d 79 (Appendix p. A73).